

# **ARIZONA CHILD SUPPORT GUIDELINES FINDINGS FROM A CASE FILE REVIEW**

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**Submitted to:**

Supreme Court  
State of Arizona  
Administrative Office of the Courts  
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# Table of Contents

Introduction.....	1
Report Organization.....	1
Background Information.....	2
Federal Law.....	2
Arizona Child Support Guidelines.....	2
Previous Deviation Studies.....	5
Sampling and Data Collection.....	5
Findings from the Case File Review.....	7
Characteristics of Parents and Child Support Orders.....	7
Application of Adjustments for Special Factors.....	10
Adjustments for Additional Child-Rearing Expenses.....	12
Application of Other Adjustments.....	14
Deviations.....	19
Summary and Recommendations.....	22

## Appendix A: Comparison of Shared-Parenting Tables

### List of Exhibits

Exhibit 1: Random Sample Strategy.....	6
Exhibit 2: General Characteristics of the Cases Reviewed.....	7
Exhibit 3: Use of Adjustments to Income by Adjustment Factor.....	11
Exhibit 4: Adjustments to Basic Child Support Obligation for Special Factors.....	12
Exhibit 5: Application of Low-Income Adjustment.....	15
Exhibit 6: Parenting Days Used in Adjustment for Shared-Parenting (2002).....	17
Exhibit 7: Parenting Days Used in Adjustment for Shared-Parenting (2002 and 1999 Samples).....	18
Exhibit 8: Guidelines Deviation Rate.....	20
Exhibit 9: Deviations from Child Support Guidelines.....	21
Exhibit 10: Differences between Guidelines-determined Orders and Guidelines- deviated Orders (2002 Sample).....	22



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## INTRODUCTION

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This report summarizes the findings from an analysis of Arizona child support case files. The purpose of the analysis is to determine the extent that child support orders are established using the Arizona Child Support Guidelines. It is part of the information that will be considered by the Arizona Supreme Court, Administrative Office of the Courts (AOC) in the review of the Arizona Child Support Guidelines. The Family Support Act of 1988 requires states to review their child support guidelines every four years [42 USC 667]. As part of that requirement, states must also analyze case data to ensure deviations are limited [45 CFR 302.56]. The requirement states:

[A] State must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited.

In other words, the intent of the case file review is to provide information that helps identify deviation factors. If there are numerous deviations for a particular issue—for example, say child care—this would suggest that the guidelines should be modified to better address that issue.

The case file review was headed by Policy Studies Inc. under contract to the AOC, and with cooperation from the Clerks of the Superior Courts of Maricopa, Santa Cruz, Pima, and Yavapai Counties. It considers a random sample of child support orders filed between May 1, 2001 and April 30, 2002. It compares the results of this case file review to those from a 1999 Arizona case file review and a national study. It also compares case characteristics between these three studies.

## REPORT ORGANIZATION

The remainder of this report is organized into three sections. The next section provides background information including a discussion of federal requirements concerning child support guidelines and guidelines review; Arizona's approach to these requirements; and, sampling and data collection techniques. The third section analyzes the results from the case file review. The final section summarizes and concludes the report.



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## BACKGROUND INFORMATION

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### FEDERAL LAW

Federal law requires states to have numeric guidelines to determine appropriate amounts of child support and that these guidelines be reviewed every four years [P.L. 98-378 and P.L. 100-485]. Federal law further requires that:

There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of such guidelines is the correct amount of child support to be awarded.<sup>1</sup>

### ARIZONA CHILD SUPPORT GUIDELINES

Arizona and 32 other states base their child support guidelines on the Income Shares model, which considers both parents' incomes in the determination of the child support award amount. The precept of the Income Shares model is that the child should receive the same proportion of parental income that the child would have received if the parents lived together.<sup>2</sup> This amount is prorated between the parents according to income.

Arizona's version of the model also considers several other factors in the computation of the child support award.

- ❖ *Adjustments to income prior to calculation of support.* Like many Income Shares states, Arizona allows adjustments to gross income before the application of the guidelines schedule. These adjustments are for spousal maintenance, payment of court-ordered child support, and a credit for natural or adopted children who are supported by the parent, but not covered by a support order.
- ❖ *Additional child-rearing expenses besides basic child support.* Since there is considerable variation in these costs from case to case, Arizona and most Income Shares states add work-related child care expenses, the child's health insurance premium, extraordinary educational expenses, and other extraordinary child-rearing expenses to the basic child support obligation. In turn, these amounts are prorated between the parents and the parent paying the expense is given a credit

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<sup>1</sup>45 CFR 302.56(f).

<sup>2</sup>A more detailed discussion of the Income Shares Model is provided by Robert G. Williams, *Development of Child Support Guidelines for Child Support Orders, Part II, Final Report*, Report to U.S. Office of Child Support Enforcement, Policy Studies Inc., Denver, Colorado (March 1987).

for his or her outlays. The basic child support obligation table excludes the costs of child care, extraordinary medical expenses, and the child's health insurance. Child care costs are further adjusted to account for the federal child care tax credit.

- ❖ *Other factors.* There are at least three other major factors considered in the determination of the support award amount.
  - *Adjustments for Older Children.* In recognition that older children cost more than younger children to support, the Arizona Child Support Guidelines allow a percentage adjustment of up to ten percent of the basic support obligation to account for older children. Few states include an adjustment for older children.
  - *Low-Income Adjustment.* The Arizona Child Support Guidelines permit an adjustment if the noncustodial parent's income after payment of child support would leave him or her with income less than the self support reserve, which is \$710 per month. This adjustment allows the noncustodial parent a minimum standard of living, but the adjustment is not presumptive. The Court is to consider the financial impact of the reduction on the custodial household in determining whether to permit the adjustment.
  - *Costs Associated with Parenting Time.* The Arizona Child Support Guidelines include a parenting time adjustment to account for the fact that the Basic Child Support Obligations, which are based on expenditures for children in intact families, do not account for child-rearing cost shifting from the custodial parent to the noncustodial parent when the noncustodial parent exercises parenting time. An additional adjustment exists for cases where there are multiple children and split custody. Most Income Shares states also have parenting-time adjustments.

All of these adjustments are permissible except those concerning court-ordered spousal maintenance and child support actually paid; cost of children's medical and dental insurance; and, shared-parenting time if proof establishes that parenting time is or is expected to be exercised by the parent paying child support.

Other factors that shall or may be included in the child support order but not in the calculation of the amount of the support award are: the percentage of any uninsured medical costs of the children that each parent shall pay; and the percentage of travel expenses associated with parenting time that each parent may pay. The allocation of these expenses does not change the amount of the support award.

## *Deviation Criteria*

Federal regulations also mandate that states have criteria for when deviations from the child support guidelines can be made.<sup>3</sup> The criteria must take into consideration the best interest of the child. The Arizona Guidelines permit deviations from the guidelines schedule if all of the following criteria are met

1. Application of the guidelines is inappropriate or unjust in the particular case;
2. The court has considered the best interests of the child in determining the amount of a deviation. A deviation that reduces the amount of support paid is not, by itself, contrary to the best interest of the child;
3. The court makes written findings regarding 1 and 2 above;
4. The court shows what the order would have been without the deviation; and
5. The court shows what the order is after deviating.

When a deviation is based on a stipulation between the parents, the following must also be present:

1. The agreement is in writing;
2. All parties have signed the agreement with knowledge of the amount of support that would have been ordered by the guidelines without the agreement; and
3. All parties have signed the agreement free of duress and coercion.

## *Changes to Guidelines Since Last Review*

There are at least three major changes to the Arizona Child Support Guidelines since the guidelines were last reviewed.

- ❖ The child support schedule has been updated.
- ❖ The amount of the self support reserve considered in the low-income adjustment has been increased. The self support reserve relates to the amount of income necessary to sustain a minimum standard of living. In addition, the low-income adjustment is now permissive. The court must also consider the financial impact the reduction would have on the custodial household when determining whether to apply it. Previously, the adjustment was presumptive and did not consider the impact on the custodial household.
- ❖ The percentage reductions used to determine the amount subtracted from the noncustodial parent's child support order for shared-parenting time were modified. The modification was to eliminate cliff effects that occurred as the obligor's share of parenting time increased. The percentage reductions are more gradually phased in now. Also, another shared-parenting timetable was added to

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<sup>3</sup>42 FCR §302.56(g)



address almost equal shared-parenting situations where one parent still incurs more of the child-rearing expenses than the other parent.

These changes and their impacts are discussed in greater detail later in this report.

## **PREVIOUS DEVIATION STUDIES**

This is the third time that Arizona has conducted a case file review to determine the percentage of child support orders with deviations from the child support guidelines since the federal requirement was promulgated. The first study was conducted in 1995 and found a deviation rate of 17 percent. The second study was conducted in 1999 and found a deviation rate of 15 percent.

## **SAMPLING AND DATA COLLECTION**

In order to enhance the comparability to the 1999 study, this study samples child support cases from the same counties that were sampled in 1999. They include Arizona's largest counties, Maricopa and Pima Counties, and a medium and small county (Yavapai and Santa Cruz County, respectively). With populations of 3,000,000 and 850,000, respectively, Maricopa and Pima Counties account for about three-quarters of Arizona's total population and a comparable percentage of child support orders. There are six medium-sized counties in Arizona; that is, counties with a population of 100,000 to 200,000. Yavapai County, with a population of about 160,000, is Arizona's fourth largest county and accounts for three percent of its population. The remaining seven counties in Arizona have populations of less than 100,000. They include Santa Cruz County, whose population is about 38,000 and accounts for less than one percent of Arizona's population.

The 1999 study sampled about 250 cases. This was the sample size necessary to determine whether the guidelines deviation rate was statistically different than the national rate, which was released in a 1996 study.<sup>4</sup> The national study has not been updated. Nonetheless, the sample size was increased to 400 cases to add to the statistical power in testing differences between subgroups. Exhibit 1 shows the sample size by county. The sampling was stratified based on large, medium and small counties and included some oversampling to account for the elimination of some cases due to incomplete information or because they are otherwise inappropriate for the study.

<b>Exhibit 1</b> <b>Random Sample Strategy</b>			
	<b>Percent of Population</b>	<b>Targeted Random Sample</b>	<b>Actual Random Sample</b>
Maricopa County	60%	250 cases	272 cases
Pima County	16%	75 cases	79 cases
Santa Cruz County	1%	30 cases	30 cases
Yapavai County	3%	50 cases	50 cases
Other Counties	20%	none	none
<b>TOTAL</b>	<b>100%</b>	<b>405 cases</b>	<b>431 cases</b>

The criteria for selecting cases were (1) Arizona had controlling jurisdiction over the establishment of the order; and, (2) the order action was filed between May 1, 2001 and April 30, 2002. The first criterion was to eliminate orders that would be set using another state's guidelines. The second criterion was to account for a revision to the guidelines effective after April 30, 2001. The revision concerns the definition of extraordinary medical expenses.

Lists of new order actions entered from May 1, 2001 through April 30, 2002, were obtained by the AOC from each of the counties. From these lists, a random sample of cases was generated for each of the sampled counties along with a methodology for randomly pulling cases if the list was exhausted or incomplete. Staff from each of the County Clerks' Offices pulled the parent worksheets and child support orders for cases identified on the list; photocopied them; and, sent them to project staff for data entry. As shown in Exhibit 1, the target was met or exceeded in all of the counties.

### **Data Limitations**

The sample did not include modified orders because it is more difficult to identify those cases among court files. Another limitation is the sample is not large enough to be used to determine statistical differences between counties; hence, all of the results are aggregated. The information is also limited to what is contained in the order and worksheet, although other information may be of interest (e.g., IV-D status of the case). Further, some information may not be reflected in the order and worksheet but still be contained in the court file or record.

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<sup>4</sup>CSR, Incorporated with the American Bar Association, *Evaluation of Child Support Guidelines: Volume 1: Findings and Conclusions*, Report to the U.S. Department of Health and Human Services Office of Child Support Enforcement, Washington, D.C. (March 1996).

## FINDINGS FROM THE CASE FILE REVIEW

### CHARACTERISTICS OF PARENTS AND CHILD SUPPORT ORDERS

Exhibit 2 shows some of the general characteristics of the parents and child support orders. We use the terms “obligee” and “obligor” to refer to the parent who is the recipient of the child support order and the parent who is the payer of the child support order, respectively. Exhibit 2 also shows the characteristics of cases in the 1999 sample of child support orders. In addition, national statistics are contained in Exhibit 2 for comparison. In comparing these samples, it is useful to note that the 2002 Arizona sample contains order actions filed between May 2001 and April 2002; the 1999 Arizona sample contains order actions filed between July 1997 and June 1998; and, the national sample is based on custodial parents surveyed in 2000 about their status in calendar year 1999.

<b>Exhibit 2</b> <b>General Characteristics of the Cases Reviewed</b>			
Characteristic	2002 Sample of Arizona Cases (n=427) % of cases	1999 Sample of Arizona Cases (n=267) % of cases	Current Population Survey from 1999 <sup>1</sup> % of cases
<b>Obligee's Gender</b>			
Female	90%	93%	85%
Male	10%	7%	15%
<b>Obligee's Age at Time of Award</b>			
Under 18	0%	0.4%	1%
18-29	26%	29%	27%
30-39	43%	45%	38%
40 and Over	31%	26%	35%
<i>Average Age of Obligee</i>	<i>35.6 years</i>	<i>35.2 years</i>	<i>not available</i>
<b>Obligor's Age at Time of Award</b>			
Under 18	0%	0%	not available
18-29	19%	24%	
30-39	43%	43%	
40 and Over	38%	34%	
<i>Average Age of Obligor</i>	<i>37.5 years</i>	<i>36.6 years</i>	
<b>Average Age of the Child</b>			
Youngest child	7.8 years	7.5 years	not available
Oldest child	9.6 years	9.5 years	

## Exhibit 2 General Characteristics of the Cases Reviewed

Characteristic	2002 Sample of Arizona Cases (n=427) % of cases	1999 Sample of Arizona Cases (n=267) % of cases	Current Population Survey from 1999 <sup>1</sup> % of cases
<b>Number of Children Covered by the Child Support Order</b>			
One child	49%	50%	59%
Two children	39%	37%	29%
Three children	9%	10%	9%
Four or more children	2%	3%	4%
<i>Average Number of Children</i>	<i>1.7</i>	<i>1.7</i>	<i>not available</i>
<b>Monthly Child Support Obligation</b>			
\$ 50 or less	6%**	1%	percentages not available
\$ 51 - \$100	4%	4%	
\$101 - \$200	15%	11%	
\$201 - \$300	11%**	20%	
\$301 - \$400	16%	21%	
\$401 - \$500	15%	13%	
\$501 or more	34%	31%	
<i>Average Monthly Obligation</i>	<i>\$455</i>	<i>\$447</i>	<i>\$396</i>
<b>Obligee's Monthly Gross Income</b>			
\$1,000 or less	26%	30%	percentages not available
\$1,001 - \$2,000	34%	43%	
\$2,001 - \$3,000	25%	20%	
\$3,001 or more	16%**	7%	
<i>Average Monthly Income</i>	<i>\$1,965**</i>	<i>\$1,640</i>	<i>\$1,960</i>
<b>Obligor's Monthly Gross Income</b>			
\$1,000 or less	12%	12%	not available
\$1,001 - \$2,000	29%	34%	
\$2,001 - \$3,000	23%	26%	
\$3,001 or more	36%**	28%	
<i>Average Monthly Income</i>	<i>\$2,988</i>	<i>\$2,696</i>	
<b>Obligor Income as a % of Combined Income</b>			
0-15%	1%	0%	not available
16-30%	7%	5%	
31-45%	17%	19%	
46-60%	31%	30%	
61-75%	25%	29%	
76-90%	10%	10%	
91-100%	10%*	6%	
<i>Average % of Combined Income</i>	<i>59%</i>	<i>60%</i>	

<sup>1</sup> "Custodial Mothers and Fathers and Their Child Support: 1999" *Current Population Reports: Consumer Income*, P60-217, U.S. Census Bureau, Washington, D.C. (October 2002).

\*Statistically different from the 1999 Arizona sample, 0.05 < p < 0.10

\*\*Statistically different from the 1999 Arizona sample, p < 0.05

The following observations can be made from Exhibit 2.

- ❖ *Most obligees are female.* The obligee is female in 90 percent of the child support orders examined in 2002. This is somewhat less than the percentage in the 1999 sample, which was 93 percent, but it is more than the national estimate, which indicates 85 percent of those eligible for child support are female. Yet, the national sample is based on a slightly different measurement. (It considers custody, rather than which parent owes child support.) Nonetheless, these trends are consistent with females being predominately the custodial parent to children, although several states, jurisdictions and disrupted families are moving away from this tradition.
- ❖ *The average age of parents when a child support order is established is about 35 to 37 years old.* Exhibit 2 shows that the average age of obligees is 36 years old and the average age of obligors is 37 years old. There are no statistical differences in ages between the 2002 and 1999 samples.
- ❖ *The average age of children when a child support order is established is 8 to 10 years old.* The youngest child is about 8 years old when a child support order is established and the oldest child is about 10 years old when a child support order is established. There are no statistical differences in average ages of the children between the 2002 and 1999 samples.
- ❖ *The vast majority of child support orders are for one and two children.* About half of the child support orders involve one child in both the 2002 and 1999 samples. The proportion of child support orders involving one child is somewhat higher nationally. (As shown in Exhibit 2, it is 59% nationally.) Child support orders involving two children comprise 39 percent of the 2002 sample. There are no statistically significant differences in the number of children between the 2002 and 1999 samples.
- ❖ *The average monthly support order is about \$450 per month.* The average monthly support order is about \$450 per month among cases in both the 1999 and 2002 samples. This is slightly more than the amount from the national sample (\$396 per month), but it is not statistically different. One factor that may explain why the national average is somewhat lower than the Arizona average is the national sample contains more support orders for one child. Since less support is ordered for one child than two or more children, this could drag the average down. Other differences may result from state differences in child support guidelines.
- ❖ *There is a small increase in support awards set at less than \$50 from the 1999 to 2002 samples.* The percentage of orders less than \$50 per month increased from 1 percent of the 1999 sample to 6 percent of the 2002 sample. This increase was statistically significant. Many of these cases in the 2002 sample were \$0 child support awards agreed to by the parents.

- ❖ *There are small increases in parents' incomes from the 1999 to 2002 sample.* The obligees' average gross income increased from \$1,640 to \$1,965 per month from the 1999 to the 2002 sample. In a similar vein, the obligors' average gross income increased from \$2,696 to \$2,988 from the 1999 to the 2002 sample. As evident in Exhibit 2, most of this increase is due to a higher proportion of parents with incomes of more than \$3,000 per month.
- ❖ *On average, the obligor's income is about 60 percent of the combined income of the parents.* In both the 2002 and 1999 samples, the obligor's income is about 60 percent of the combined income of the parents, on average. This proportion is an important factor in the child support calculation because Arizona uses the Income Shares model, which prorates most child-rearing costs between the parents according to income. In other words, on average, the obligor will be responsible for 60 percent of the child-rearing costs.

## **APPLICATION OF ADJUSTMENTS FOR SPECIAL FACTORS**

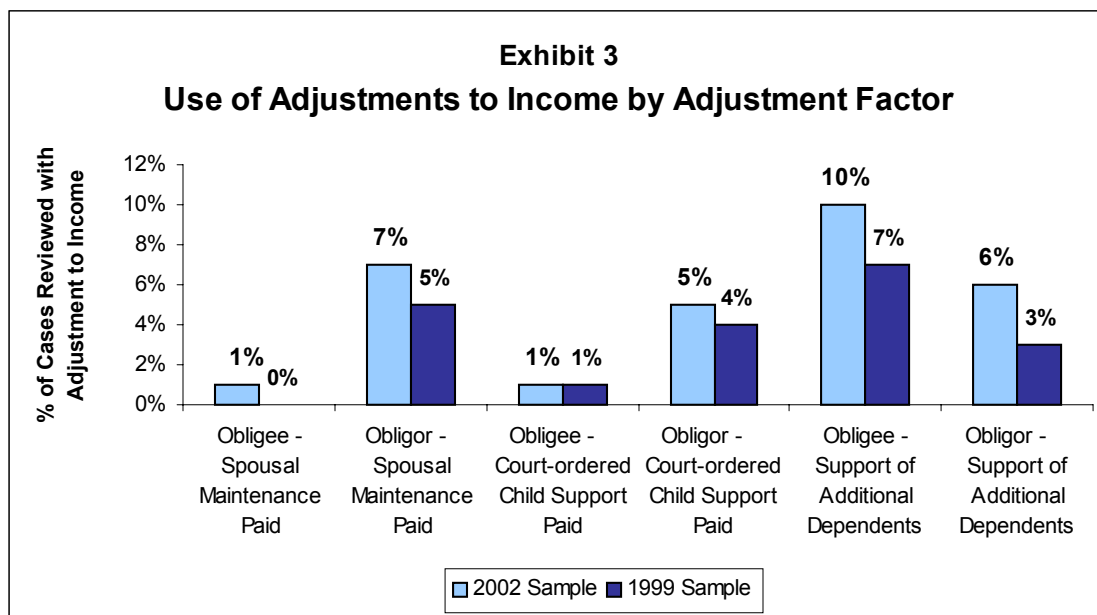
As discussed earlier, Arizona Child Support Guidelines consider several factors in the calculation of a child support award. Some of these adjustments are to income; some are additional child-rearing costs; and then, there are still other major adjustments: those for the child's age; shared-parenting time; and, low-income obligors. The frequency that these adjustments are applied and their impact on child support award amounts are discussed separately below. This section also discusses the children's uninsured medical expenses and travel costs associated with shared-parenting time, which are not factored into the calculation of the support award, rather, each parent is assigned a percentage of these costs as part of the support order.

### ***Adjustments to the Parents' Incomes***

Exhibit 3 displays the frequency that adjustments were made to the parents' incomes in the 2002 and 1999 samples of child support orders. The existing Arizona Child Support Guidelines allow the following to be subtracted or added from each parent's income.

- a. The amount of court-ordered spousal maintenance actually paid may be subtracted or added depending on whether the parent is receiving or paying spousal maintenance.
- b. The amount of court-ordered child support actually paid for children of other relationships—meaning natural or adopted children who are not the subject of the order being determined—may be subtracted.

- c. Support of natural or adopted children not covered by a court order may be subtracted. If it is factored in, it is to be set at an amount equivalent to what a hypothetical order amount (i.e., dummy order) would be using the guidelines. These provisions were also in effect when the support orders in the 1999 sample were entered.



The following observations can be made from Exhibit 3 about adjustments to parents' incomes based on guidelines provisions.

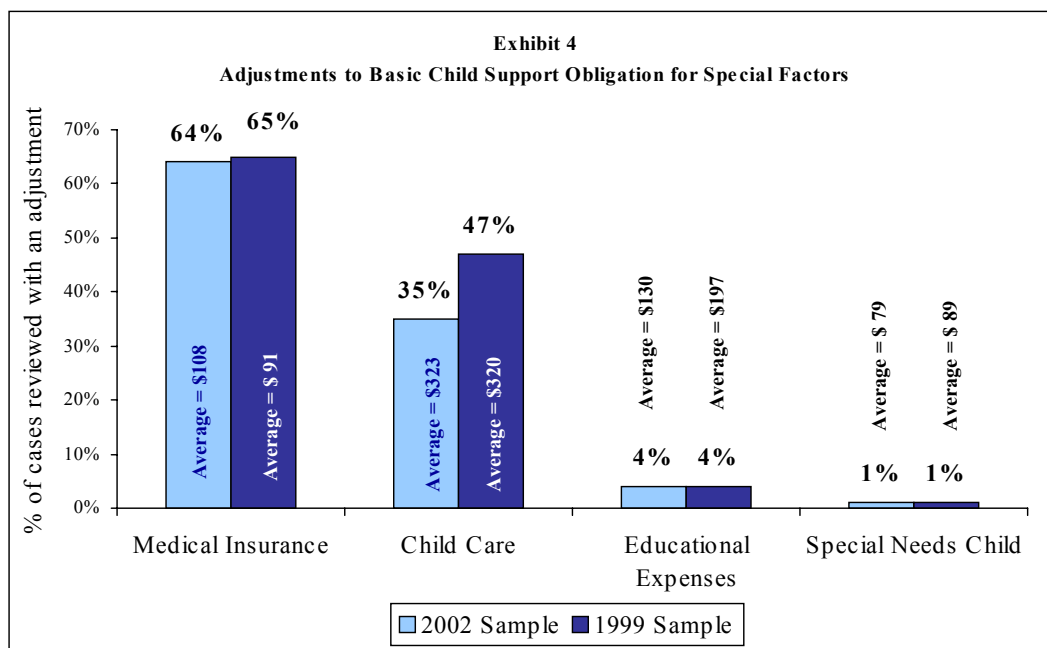
- ❖ *Spousal maintenance is infrequently considered in the child support calculation.* Although it is not known how many parents actually pay spousal maintenance, it is infrequently considered in the child support calculation. Among the 2002 sample, 1 percent of the obligees and 7 percent of the obligors have spousal maintenance payments subtracted from their incomes. The 1999 sample also indicates spousal maintenance is infrequently considered in the child support calculation. The average monthly amounts of spousal maintenance subtracted from gross incomes were \$630 for obligees and \$1,295 for obligors among those in the 2002 sample.
- ❖ *Court-ordered child support is infrequently considered in the child support calculation.* Similar to spousal maintenance, it is not known how many parents pay court-ordered child support. Nonetheless, few parents have adjustments made to their incomes for the payment of court-ordered child support. Among the 2002 sample, only 1 percent of the obligees had an adjustment for payment of court-ordered child support and 5 percent of the obligors had an adjustment. Similar low percentages existed among parents in the 1999 sample. The average amounts deducted from income for prior support orders were \$348 for obligees and \$365 for obligors among those in the 2002 sample.

- ❖ *Support of additional dependents is infrequently considered in the child support calculation.* Similar to spousal maintenance and prior child support orders, few cases have adjustments for additional dependents. Among the 2002 sample, only 10 percent of the obligees and 6 percent of the obligors have adjustments made to their income for additional dependents. The average amounts subtracted from parents' incomes were \$424 for obligees and \$508 for obligors among those in the 2002 sample.

Although not shown in Exhibit 3, about one quarter (26 percent) of the 2002 sample had at least one adjustment to the obligor or obligee's income. The national child support guidelines study (CSR, Inc. 1996) also found that these types of adjustments were used infrequently in the calculation of child support awards.

## ADJUSTMENTS FOR ADDITIONAL CHILD-REARING EXPENSES

As discussed earlier, the Arizona Child Support Guidelines permits the addition of child care, the child's health insurance premium, and other extraordinary child-rearing expenses that are likely to vary from case to case to the basic obligation. If the obligee incurs the costs of these additional child-rearing costs, this will raise the amount of the child support award. If the obligor incurs the costs of these additional child-rearing costs, it will lower the amount of the child support award. The frequency to which these adjustments are applied and their average adjustment amounts are shown in Exhibit 4.





Several observations about the treatment of additional child-rearing expenses in the calculation of the support award can be made from examining Exhibit 4. They include the following.

- ❖ *Most child support awards consider the costs of the child's medical insurance.* About two-thirds of the child support orders in both the 2002 and 1999 samples include an adjustment to account for the child's medical insurance premium. (This may also include dental insurance, medical and dental insurance are not separated from each other in the data.) The high proportion of child support awards that consider the child's medical insurance premium is probably related to another provision of the Arizona child support guidelines that mandates that the order assign at least one parent the responsibility for providing the child's medical insurance.

As an aside, the parent who is court ordered to provide for the child's medical insurance is almost evenly split between mothers and fathers. The medical insurance coverage is assigned to: the mother in 42 percent of the 2002 sampled cases; the father in 54 percent of the 2002 sampled cases; and, both parents in 4 percent of the 2002 sampled cases. This is a shift from the split among 1999 sampled cases where one third (33%) of the mothers were court-ordered to provide medical insurance; and, two thirds (67%) of the fathers were court-ordered to provide medical insurance. Although the reasons for the change in the split cannot be identified from the case files, it may relate to the mother typically being the primary custodial parent, hence the child living in the geographic area covered by the mother's medical insurance. Courts have become more cognizant that some medical insurance policies are limited to a particular geographic area. This can be problematic if the noncustodial parent is providing the child's medical insurance but the child lives in another geographic area that is not covered by the noncustodial parent's medical insurance.

Nonetheless, a parent was not always ordered to provide medical insurance for the children. In all, 20 percent of the 2002 sampled orders did not specify a parent to provide medical insurance. In many of these cases, the parents may not have employer-provided insurance available and the children may be insured through Medicaid or the State Child Health Insurance Program (SCHIP). In cases where a parent was ordered to provide medical insurance and there is an adjustment for the medical insurance premium, it averages \$108 per month among the cases in the 2002 sample and \$91 per month among the cases in the 1999 sample.

- ❖ *There is a significant decrease in child support awards which consider child care expenses from the 1999 to 2002 sample.* Both the existing Arizona Child Support Guidelines and the Guidelines in effect when the orders in the 1999 sample were established

provide that child care expenses may be added to the basic child support obligation. About one third (35%) of the 2002 sampled orders included an addition for child care costs. In contrast, almost one half (47%) of the 1999 sampled orders included an addition for child care costs. The decrease, in part, reflects an increase in children's ages between the two samples. The 2002 sample has a higher proportion of children 12 years old and older among one-child and three-and more child cases than the 1999 sample. It is also unknown how many parents incur work-related child care costs. The average amount of child care costs included in the calculation of the support award remained unchanged between the two samples. It averages about \$320 per month among cases in the 2002 sample.

- ❖ *Few child support awards consider extraordinary education expenses.* As discussed earlier, extraordinary education expenses (e.g., private school tuition) may be added to the basic obligation. Although it is unknown how many children attend private or special schools, only 4 percent of the cases examined in both the 2002 and 1999 samples include the consideration of extraordinary education expenses in the calculation of the support award. The average amount added to the basic obligation for education expenses was \$130 per month among cases in the 2002 sample.
- ❖ *Few child support awards consider other extraordinary child expenses.* The court may increase the basic child support obligation to provide for the special needs of a gifted or handicapped child. Only 1 percent of the 1999 and 2002 sampled cases had an adjustment for a special needs child. When the adjustment was applied, it averaged \$79 per month among cases in the 2002 sample.

## APPLICATION OF OTHER ADJUSTMENTS

As discussed earlier, there are at least three major adjustments to the basic child support calculation.

- ❖ Adjustment for older children
- ❖ Adjustment for low-income, noncustodial parents
- ❖ Adjustment for shared-parenting time

### *Application of the Adjustment for Older Children*

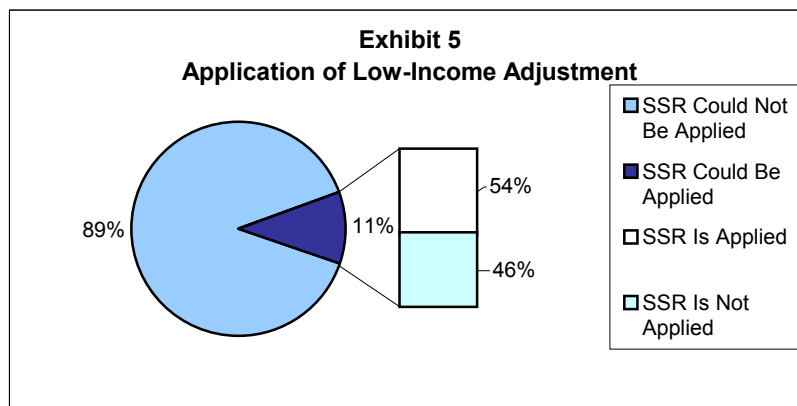
As mentioned earlier, the Arizona Child Support Guidelines permits an adjustment to account for older children costing more to raise than younger children. About one

third (32%) of the support awards examined in the 2002 sample considered an adjustment for older children. This is a significantly higher proportion than what was noted in the 1999 sample, which found about one quarter (24%) of the support awards examined considered an adjustment for older children. The reason for the increase probably relates to an increase in older children as noted in the discussion about the child care add-on. There is no significant difference in the number of older children between the 2002 and 1999 samples. The average amount of the adjustment, however, did not change between the sample periods. It averaged \$83 among cases with an adjustment in the 2002 sample.

### *Application of the Adjustment for Low-Income Obligor*

The Arizona Guidelines provide for a self-support reserve test, to verify that the noncustodial parent is financially able to pay both the child support order and to maintain a minimum standard of living. The self support reserve (\$710) is deducted from the obligor's adjusted gross income. If the remainder is less than the child support order, the court *may* reduce the current child support order to the resulting amount, after first considering the financial impact the reduction would have on the custodial household.

As evident in Exhibit 5, 11 percent of the obligors were eligible for the low-income adjustment, but it was applied in only about half (54%) of these cases. Without the low-income adjustment, the average support award



would be \$306 per month in these cases. With the adjustment, the average support award is \$203 per month. This is the same amount of the average support award in the cases that were eligible for the low-income adjustment but did not receive it. The average support award in those cases was \$206 per month. This suggests that the Courts may consider what would be an appropriate minimum support amount in determining whether to apply the low-income adjustment.

Comparisons cannot be made to the 1999 sample because similar information was not collected for that study.

## *Application of the Shared-parenting Time Adjustment*

An adjustment for the costs associated with shared-parent time was applied in the majority of the support awards among the 2002 and 1999 sampled cases (77 percent and 78 percent, respectively). The average adjustment was about \$150 per month among support awards in both samples. The adjustment is based on the number of “parenting” days per year; that is, time spent with the noncustodial parent, and consists of a subtraction from the noncustodial parent’s share of the basic obligation. The amount subtracted is based on a percentage reduction to the basic obligation as determined by a look-up table that considers a range of parenting days in one column and a progression of percentage reductions in another column. This look-up table (called Parenting Time Table A in the Arizona Child Support Guidelines) is shown in Appendix A. In addition, there is also a Parenting Time Table B for cases where the parents have almost equal amounts of shared parenting time, but one parent incurs more child-rearing expenses than the other parent. None of the support awards in the 2002 sample were determined using Parenting Time Table B.

Exhibit 6 displays the range of parenting days per year considered in the shared-parenting time adjustment and the proportion of cases with support awards based on each range. As shown in Exhibit 6, 40 percent of the support awards in the 2002 sample with a shared-parenting adjustment were based on the obligor having 88-115 parenting days. This approximates a visitation schedule of every other weekend and one overnight per week (104 parenting days); or, more than a visitation schedule of every other weekend, holidays and one month per year (87 parenting days). Also shown in Exhibit 6 is that 22 percent of the support awards were based on the obligor having more time with the children (116-182 parenting days); and, 38 percent of the support awards were based on the obligor having less time with the children (4-87 parenting days). No adjustment is granted if the noncustodial parent has fewer than 4 parenting days.

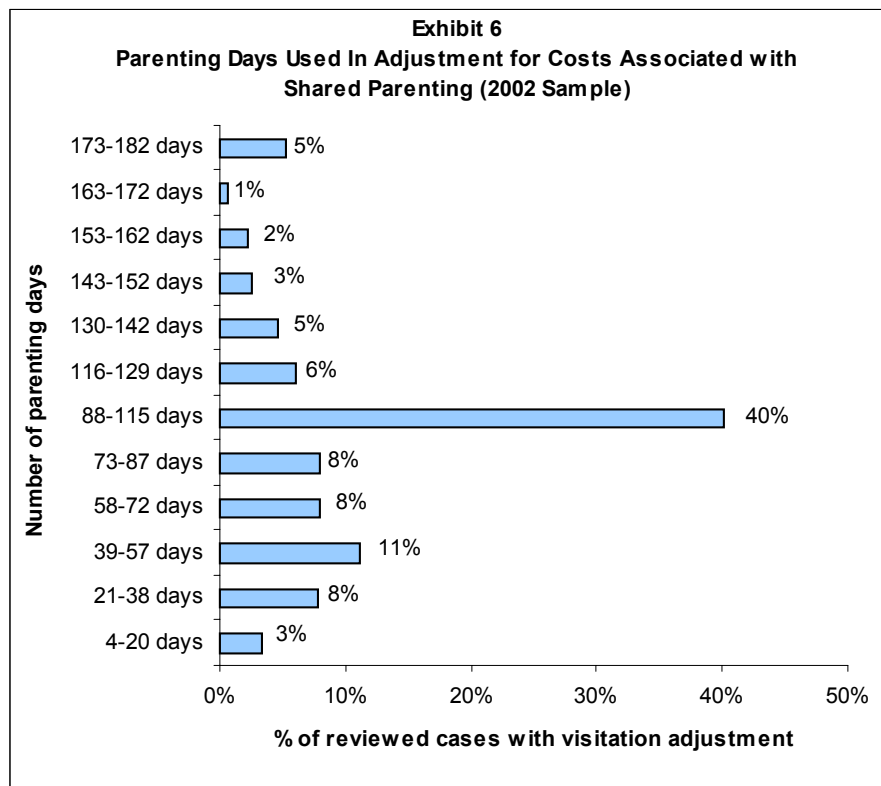
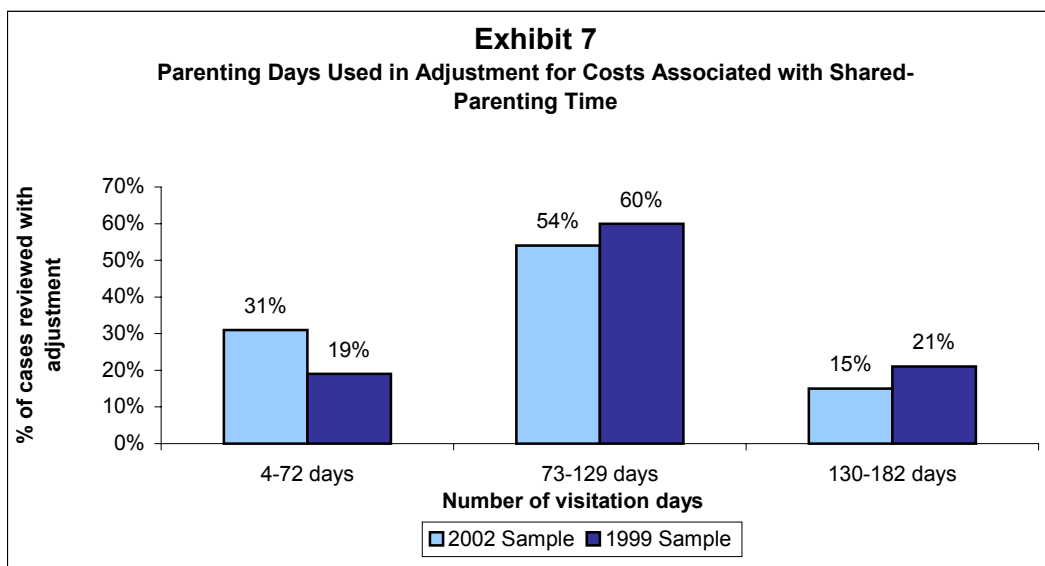


Exhibit 7 compares changes in parenting days considered in support awards between the 1999 and 2002 samples. This is an important issue because the 1999 case file review found that the majority of support awards were determined using 73-129 parenting days. The child support guidelines in effect then resulted in a significantly higher adjustment percentage as the number of parenting days increased from 72 to 73 (the adjustment percentage increased from 0.068 to 0.187, which more than doubles the amount to be subtracted from the child support award to account for shared-parenting time). There was some concern that the number of parenting days was being increased above 72 days just to qualify for the higher percentage reduction. As a consequence, the timetable was modified to phase in the adjustment percentage more gradually.<sup>5</sup> For example, increasing the number of parenting days from 72 to 73 under the current Arizona Child Support Guidelines will now only result in an increase in the adjustment percentage from 0.085 to 0.105, which is about a 25 percent increase in the amount that would be subtracted from the support award to account for shared-parenting time.

Nonetheless, the evidence presented in Exhibit 7 suggests that there probably was not much gaming of parenting days to lower support award amounts. If there was,

<sup>5</sup>See Appendix A for a comparison of the shared-parenting time tables in effect over the two time periods.

we would expect to see a significant decrease in the percentage of orders determined with 73-129 parenting days, which is where the cliff effect occurred in the previous guidelines. (Those cliff effects are now eliminated in the current guidelines.) Exhibit 7 shows that 54 percent of the support awards with a shared-parenting time adjustment among the 2002 sample were based on the obligor having 73-129 parenting days. The comparable percentage among the 1999 sample was 60 percent, which is not statistically different. Exhibit 7 also shows the percentage of support awards determined with more and less parenting days among the 2002 and 1999 sampled cases. More support awards among the 2002 sample (31% of those with a shared-parenting adjustment) were based on the obligor having 4-72 parenting days than those from the 1999 sample (19% of those with a shared-parenting adjustment). This difference was statistically different. Exhibit 7 also shows that 15 percent of the support awards among the 2002 sampled cases were based on the obligor having 130-182 parenting days; whereas, the comparable percentage among the 1999 sampled cases was 21 percent. This difference was not statistically different.



Although not shown in any exhibit, one issue of discussion is whether the shared-parenting time adjustment could flip a custodial parent into becoming the obligor once the adjustment is applied. Theoretically, this could occur if the custodial parent's share of combined income is more than the percentage reduction for a particular amount of shared-parenting time. To illustrate this, consider a case where the basic obligation is \$1,000 per month; the custodial parent's share of combined income is 80 percent; and, the noncustodial parent's share of combined income is 20 percent. Before application of the shared-parenting time adjustment, the noncustodial parent's support award would be \$200 [ $\$1,000 \times 0.20$ ]. If the

noncustodial parent has the child for 130 parenting days, according to Parenting Time Table A, this would reduce the noncustodial parent's support award amount by \$253 [ $\$1,000 \times 0.253$ ]. This would result in the noncustodial parent owing a negative support award of \$53 [ $\$200 - \$253$ ] per month. In other words, the custodial parent would become the obligor. In practice, however, this possibility only occurred in three of the cases in the 2002 sample. In all of these cases, the parents had almost equal gross adjusted incomes and equal time sharing, so the order amounts were set at \$0 according to Section 10 of the Arizona Child Support Guidelines.

### *Provisions in the Child Support Order Other than the Support Award*

The support order is also suppose to specify the percentage share of the children's uninsured medical expenses that will be the responsibility of each parent. In a similar vein, the support order may specify the percentage share of the travel costs associated with shared-parenting time that will be the responsibility of each parent. These percentages do not affect the amount of the child support award. The percentage share of the children's uninsured medical expenses was split 45/55 percent between the obligee and obligor, on average. The percentage split for travel costs associated with shared-parenting time is 39/61 percent, on average. These percentages are typically prorated between the parents according to income or split 50/50 percent between the parents.

## **DEVIATIONS**

Exhibit 8 shows the percentage of child support awards with a deviation from the guidelines among the 2002 sample; the 1999 sample; and, the national study published in 1996. The guidelines deviation rate among the 2002 sampled cases is 22 percent. This is statistically more than the guidelines deviation rate among the 1999 sampled cases (15%) and that of the national deviation rate (17%). At first blush, the increase in the deviation rate could be a major issue of concern, but since most (78%) of the deviations resulted from an agreement between the parents, there is less need for concern. There are numerous studies to suggest that when the parents can agree on the child support award, it is more likely to be paid.<sup>6</sup> Further, studies indicate that the more parents can cooperate, the better are child outcomes.

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<sup>6</sup>For example, see H. Elizabeth Peters, "Can Child Support Policies Promote Better Father Involvement? The Role of Coercive vs. Supportive Policies," *Poverty Research News*, Joint Center for Poverty Research, Northwestern University/University of Chicago, Chicago, Illinois, Vol 4. , No. 2 (2000).



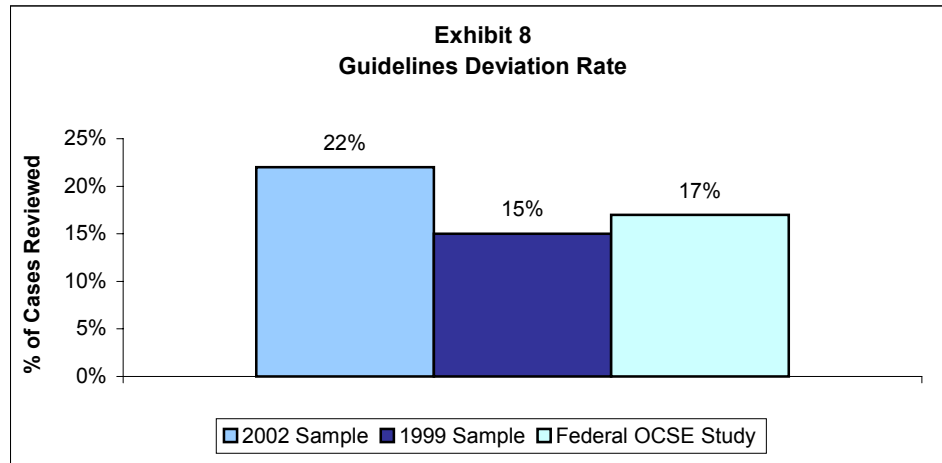


Exhibit 9 shows the percentage of deviations resulting from an agreement of the parties among those cases in the 1999 sample with deviations and those from the national study. Both of these other studies show a smaller proportion of deviations resulting from agreement of the parties than that of the 2002 sample, where in 78 percent of the guidelines deviations, the parents agreed to the amount of the support award. The comparable percentage in the 1999 sample was only 56 percent and the comparable percentage in the national study was even less. It was only 21 percent.

In the 22 percent of the guidelines deviations in the 2002 sample where the parents did not agree to amount of the support award, the reason for the deviation was that the application of the guidelines is inappropriate or unjust. Yet, the order or guidelines worksheet did not usually elaborate as to why they would be inappropriate or unjust.

Exhibit 9 also shows the direction and the amount of the deviation. On average, about half of the guidelines deviations (51%) were upward among those in the 2002 sample; and, the other half (49%) were downward. The percentage of 2002 guidelines deviations that are downward is significantly different than the percentages from the 1999 sample and national study. The percentages of guidelines deviations that were downward were 42 and 83 percent from the 1999 sample and the national study, respectively. Exhibit 9 also shows that the average deviation amounts have gotten larger over time. The average downward deviation was 48 percent of the guidelines-determined amount among those in the 2002 sampled cases. The comparable percentage among the 1999 sample was 24 percent. Among the 2002 guidelines deviations that were upward, the average deviation from the guidelines-determined amount was 74 percent; whereas, the comparable percentage was 22 percent among the 1999 sampled cases.



<b>Exhibit 9</b> <b>Deviations from Child Support Guidelines</b>			
	<b>2002 Arizona Sample</b> <b>( n = 427)</b>	<b>1999 Arizona Sample</b> <b>(n = 266)</b>	<b>Federal OCSE Study</b> <b>(n = 4,210)</b>
Percent of cases with a deviation	22% <sup>ψ,*</sup>	15%	17%
Deviation Resulted from Agreement of the Parties			
❖ Yes	78% <sup>ψ,*</sup>	56%*	21%
❖ No	22%	44%	Unknown
Direction of the Deviation			
❖ Downward	51% <sup>ψ,*</sup>	42%*	83%
❖ Upward	49% <sup>ψ,*</sup>	58%*	17%
Average Amount of the Deviation <sup>a</sup> (% of guidelines amount)			
❖ Downward	-48% <sup>ψ</sup>	-24%	-33%
❖ Upward	74% <sup>ψ</sup>	22%	33%

<sup>ψ</sup>Statistically different from the 1999 Arizona Sample, p <0.05

\* Statistically different from the Federal OCSE Study, p <0.05

<sup>a</sup>Average amount of deviation could not be compared to the Federal OCSE Study for statistical significance.

Exhibit 10 shows that despite the increase in deviations and the increase in downward deviations, the average amount of the child support award is higher in awards where the guidelines were deviated from than guidelines-determined awards (\$521 is the average monthly support award when the guidelines were deviated from and \$436 is the average monthly support award when the guidelines were followed.) Also shown in Exhibit 10 is that in large part, this difference reflects that support awards where the guidelines were deviated from involve obligors with higher incomes than those where the guidelines were followed. The average adjusted gross income of obligors in support awards where the guidelines were deviated from was \$3,634 per month compared to \$2,679 per month in support awards where the guidelines were followed. Another interesting difference is that support awards where the guidelines have been deviated from are more likely to include the payment of spousal maintenance than those support awards that are based on the guidelines. The percent of obligors among cases with a deviation that have spousal maintenance subtracted from their income is 15 percent; whereas, the comparable percentage among those in cases where the support award was guidelines determined is 5 percent.

**Exhibit 10**  
**Differences between Guidelines-determined Orders and**  
**Guidelines-deviated Orders**  
**(2002 Sample)**

	<b>Guidelines- Determined Orders</b> <b>(n = 331)</b>	<b>All Guidelines- deviated Orders</b> <b>(n = 96)</b>	<b>Guidelines- deviated Orders</b> <b>(Stipulations Only)</b> <b>(n = 75)</b>
Average Monthly Support Award	\$436	\$521*	\$562*
Obligor Average Adjusted Gross Monthly Income	\$2,679	\$3,634*	\$4,002*
% of Obligor's Whose Income Has Been Adjusted for Spousal Maintenance	5%	13%*	15%*

\* Statistically different from Guidelines-Determined orders,  $p < 0.05$

## SUMMARY AND RECOMMENDATIONS

The major findings of this case file review are as follows.

- ❖ There are no significant changes in case characteristics of parents and child support orders since the previous case file review was conducted. One exception is that there has been a small increase in parents' incomes; yet, this would be expected over time. Also, there has been a small increase in \$0 support awards.
- ❖ There has been a significant decrease in the application of the child care adjustment, yet a significant increase in the application of the older child adjustment. This change reflects a change in the children's ages between the two samples. The 2002 sample contains a higher proportion of cases with children 12 years old and older among one-child and three- and more child cases.
- ❖ The changes to the shared-parenting adjustment appear to be working. There is no evidence of a cliff effect or flopping between which parent owes support due to application of the shared-parenting adjustment.
- ❖ The guidelines deviation rate has increased since the last case file review. It is now 22 percent. It was 15 percent when the last case file review was conducted.
- ❖ Most (78%) of the deviations from the guidelines stem from stipulations between the parents. On average, these cases also involved higher incomes.

## RECOMMENDATIONS

- ❖ AOC should encourage the courts to closely review written agreements of the parties to ensure that they follow the provisions of the Arizona Child Support Guidelines. Given the increase in the percentage of deviations resulting from stipulations, it is even more critical for this monitoring to ensure these support

awards are just and appropriate. Enhanced monitoring could also include an analysis of written agreements in the next case file review.

- ❖ The Guidelines should require a more detailed reason for the deviation be included as written findings in the support order or by incorporating a worksheet containing that information into the file. Currently, it is sufficient to find that the application of the guidelines would be inappropriate or unjust, but an explanation as to why it would be inappropriate or unjust is not required.
- ❖ Based on the case file review, there is no evidence to suggest that any provisions of the guidelines need to be changed. The only exception is Parenting Time Table B. Since it was not used in any of the reviewed cases, AOC may consider eliminating it or better educating judges about when it should be applied.



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## Appendix A

### Comparison of Shared-Parenting Time Tables

Parenting Time Table A Current Review Period (Effective as of December 31, 2000)		
Number of Visitation Days		Adjustment Percentage
0	3	0
4	20	.012
21	38	.031
39	57	.050
58	72	.085
73	87	.105
88	115	.161
116	129	.195
130	142	.253
143	152	.307
153	162	.362
163	172	.422
173	182	.486

Visitation Table Previous Review Period (Effective as of October 31, 1996)		
Number of Visitation Days		Adjustment Percentage
0	3	0
4	20	.012
21	38	.031
39	57	.050
58	72	.068
73	129	.187
130	148	.255
149	166	.289
167	180	.323